

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION
No. 5:14-CV-367-BO

CERTAIN UNDERWRITERS AT)
LLOYD'S, LONDON subscribing to)
POLICY NOS. TCNR001338,)
TCNR005665 and TCNR012269,)
)
Plaintiff,)
)
v.)
)
STOCK BUILDING SUPPLY, LLC n/k/a)
BMC EAST, LLC,)
)
Defendant.)
)
and)
)
STOCK BUILDING SUPPLY, LLC.)
)
Third-Party Plaintiff,)
)
v.)
)
WOOMER INSURANCE GROUP, INC,)
)
Third-Party Defendant.)

ORDER

This matter is before the Court on defendant Stock Building Supply's motion for partial summary judgment in its favor on plaintiff Certain Underwriters at Lloyd's, London's (Underwriters) duty to defend. Without opposition from Underwriters, and in light of this Court's prior ruling on Underwriters' motion for summary judgment, Stock Building Supply's (Stock) motion [DE 147] is GRANTED for the reasons outlined therein.

Also pending before the Court is Underwriters' motion to conduct limited discovery on the issue of the amount of fees and costs paid by Stock in its defense in the Underlying Action.

Stock has responded that it will produce the relevant invoices and a consent protective order has been entered by the Court. To the extent any additional discovery is required, the Court will GRANT Underwriters' motion and permit the parties twenty-one days from the date of entry of this order to complete any remaining discovery.

Finally, third-party defendant Woomer has filed a motion for summary judgment which has been to date held in abeyance. At the hearing before the undersigned conducted April 19, 2022, Woomer's counsel requested that its motion continue to be held in abeyance pending final resolution of Stock's claim, noting that if Underwriters have a duty to defend Stock, Stock has no claim against Woomer. The Court will continue to hold the motion in abeyance pending a decision on Stock's amount of attorney fees and costs paid in its defense of the Underlying Action. Stock and Woomer shall, at the time Stock files its request for an award of attorney fees and costs paid in defense of the Underlying Action, either request withdrawal of Woomer's motion or file a joint motion for appropriate resolution of the motion.

CONCLUSION

In sum, and for the foregoing reasons, Stock's motion for partial summary judgment [DE 147] is GRANTED. Underwriters' amended motion for limited discovery [DE 155] is GRANTED and discovery on the issue of the amount of fees and costs paid by Stock in its defense in the Underlying Action shall remain open for twenty-one days from the date of entry of this order. Woomer's motion for summary judgment [DE 122] shall remain HELD IN ABEYANCE as outlined above.

The parties shall, not later than October 21, 2022, file any motions or stipulations necessary to bring this case to a close.

SO ORDERED this 13 day of September 2022.

A handwritten signature in black ink, reading "Terrence Boyle", written over a horizontal line.

TERRENCE W. BOYLE

UNITED STATES DISTRICT JUDGE